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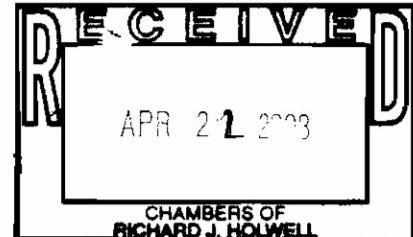
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DATE FILED: 4/22/08 dpl@cooley.com	



April 22, 2008

VIA FACSIMILE (212.805.7948)

The Honorable Richard J. Holwell
United States District Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007



Re: E*TRADE Financial Corp., et al. v. Hernandez, et al., No. 08 CV 2993

Dear Judge Holwell:

We represent Plaintiffs in the above-referenced action. I am informed by my office that yesterday you signed an order to show cause setting a hearing for Wednesday April 23 at 3:00 pm and requiring Plaintiffs to file a brief today at 5:00 p.m.

I am currently in Salt Lake City and will be appearing today at a motions hearing before the Hon. Ted Stewart in *TON Serv., Inc. v. Qwest Corp.*, No. 1-1:04-cv-0035TS (D. Utah). On Wednesday, April 23rd, I will be appearing at a Rule 16(b) Scheduling Conference in Denver before Magistrate Judge Michael E. Heggarty in *Securities & Exch. Comm'n v. Arnold et al.*, No. 03-cv-00328-REB-MEH (D. Colo.). I will not be arriving back in Virginia from Denver until 1:00 a.m. EDT on this Thursday April 24. Accordingly, it would be impossible for me to appear on Wednesday April 23 as ordered. I respectfully request that the Court move the order to show cause hearing until this Friday, April 25, and that we be allowed to submit our response by 5:00 p.m. EDT on Thursday April 24.

Defense counsel was well aware of my schedule. Mr. Lukanski, counsel for Banc of America, approached me last week about engaging in settlement discussions. In response, I sent an email to all defense counsel Sunday April 20 informing them that I would be out of town at various court proceedings Monday through Wednesday. Counsel made their application at a time and in a manner when it was inevitable that I would be hampered in responding due to my travel schedule.

In light of my unavoidable and preexisting scheduling conflicts, I ask the Court's indulgence in moving the hearing date. I would note that we are early in the pendency of the injunction and thus there is no prejudice to Defendants. Thank you for your consideration.

Respectfully submitted,

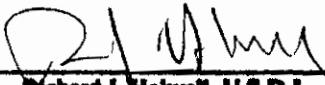
Douglas P. Lobel



The Honorable Richard J. Holwell
April 21, 2008
Page Two

cc: Thomas J. Momjian, Esq.
John O. Lukanski, Esq.
Paul A. Saso, Esq.
(All via electronic mail)

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<p><u>The order to show cause hearing</u> <u>is adjourned until Monday, April</u> <u>28, 2008 at 11:30 a.m. Plaintiff</u> <u>shall file any opposition by</u> <u>April 24, 2008 at 5:00 p.m.</u></p>	
<hr/> <p>SO ORDERED: Date: 4/22/08</p>	
 Richard J. Holwell, U.S.D.J.	